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June 30, 1997

VIA FEDERAL EXPRESS

William F. Caton, Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: Notification of Permitted Ex Parte Communications -- Closed
Captioning and Video Description of Video Programming Notice of
Proposed Rulemaking MM Docket No. 95-176

Dear Mr. Canton:

Pursuant to Section 1.1206(b)(1) of the Commission's Rules, Great American County, Inc. hereby submits this letter and two copies of a permitted written *ex parte* presentation from Gregory Liptak of Great American County, Inc. to Reed E. Hundt, dated June 30, 1997 in the referenced proceeding.

If you need any additional information, please contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert S. Zinn".

Robert S. Zinn
Counsel

cc: Reed E. Hundt

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A Jones International Networks Company

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June 30, 1997

VIA FEDERAL EXPRESS

Mr. Reed E. Hundt, Chairman
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Re: Closed Captioning and Video Description of Video Programming
Notice of Proposed Rulemaking MM Docket No. 95-176

Dear Mr. Hundt:

Great American Country, Inc. ("GAC" or "Network") submits this letter to express its views about the potential effect on GAC of mandatory closed captioning.¹ GAC is a recently launched cable television network and believes that an exemption for such early stage networks is necessary.

GAC supports the principle of closed captioning of video programming. However, as is explained in this letter, GAC does not favor mandatory closed captioning for all television networks, regardless of size or the economic harm that will be caused to smaller networks. Also, networks like ours that feature predominantly music videos have a separate valid basis for exemption from closed captioning due to the nature of the programming itself.

¹ In accordance with the Commission's **ex parte** rules, two copies of this letter shall be submitted to the Secretary for inclusion in the record.

Background of GAC.

GAC is a 24-hour per day cable television network which features a country music video format. The Network, which is owned by Jones International Networks, Ltd., was launched in December 1995, and is currently available to approximately 1.2 million subscribers nationwide. With the exception of one show, *Behind the Scenes*, which airs for 30 minutes several times each week, the Network's programming consists entirely of country music videos and brief (*i.e.*, less than 30 seconds in length) interstitial messages and introductions. Approximately 90 percent of the videos presented are new videos, while the remaining 10 percent are library music videos.

Competition and Cost Factors Facing New Networks.

GAC operates in a highly competitive industry - one that is characterized by substantial barriers to entry for new programming networks. We face a number of regulatory, economic and technical obstacles. Most notably, the channel scarcity that hinders new networks' growth has been exacerbated by recent regulatory developments, such as must-carry, local PEG requirements, rate regulation and leased access. In addition, the lack of adequate financial capacity of many cable operators has delayed or canceled many system rebuilds, expansions, and the implementation of the digital technology which would have provided more channel space.

As a basic cable network, GAC's revenues are directly linked to penetration, *i.e.* the extent of the distribution of its programming. GAC, like other start-up networks, faces demands from cable operators and other MVPDs to provide financial incentives to these operators in order to obtain agreements for the carriage of their networks. These incentives include years of free service at the outset and significant front-end cash payments. This factor, along with GAC's inability to tie the launch of its network either to the grant of broadcast retransmission consent or to program exclusivity, has limited GAC's penetration and fee revenues from operators now and for the foreseeable future. GAC's current advertising revenues are also limited because few national advertisers will place significant advertising on a basic cable network until it reaches a large subscriber base, often as high as 20 million.

We believe that the final captioning rules must recognize the differences between the various video programming suppliers. All programmers should not be treated as if they were uniformly situated. There are many differences between

low-penetrated cable networks (such as GAC) and large broadcast and cable networks, in terms of size, viewership, advertising revenues, programming budgets and staffing levels. On a per-viewer basis, the relative burden of captioning for GAC, with only 1.2 million subscribers, will be far greater than for the major broadcast networks, which reach approximately 96 million households each, or even for GAC's counterpart, MTV: Music Television, which, as of December 1996, has 66,700,000 subscribers.

Not to recognize these differences would be unfair to new programming networks, which will bear the practical burden of complying with the rules and which will not be able to pass these costs along to MVPDs or subscribers. GAC cannot raise affiliate license fees to cover these costs, either because existing affiliation contracts with cable systems do not permit rates to be raised or because new contracts will provide for free programming for some initial period, which could be as long as five years. Also, GAC can't require its music video suppliers to absorb the cost, as GAC has no agreements with record companies to require captioning on their videos.

GAC will have no choice but to absorb captioning costs and GAC may then be forced not to air videos that are provided uncaptioned by record companies. This will make the GAC programming more repetitive and therefore less attractive to viewers and cable operators, hurting GAC's distribution and advertising revenue. The diversity of the music video programming that GAC provides to its viewers will also suffer.

GAC Supports Exempting Programmers With Less Than 20 Million Subscribers.

GAC endorses the proposal set forth by several other low-penetrated networks, Outdoor Life Network, Speedvision Network, BET on Jazz, America's Health Network and The Golf Channel, that the Commission classify programming delivered by national, basic networks that serve fewer than 20 million subscribers as "exempt" programming. This exemption would allow GAC a vital, but temporary, reprieve from the cost burden of captioning until it can establish itself in the marketplace.

Exemption for Music Video Programming.

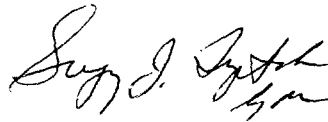
GAC also favors exempting music videos as a class of programming. GAC supports the position of the Recording Industry Association of America and the National Association of Record Distributors & Manufacturers, and endorses the

proposal of BET Holdings, Inc. to exempt all music videos as a class of video programming. Unlike news, movies and general entertainment programming, where the spoken word is the most important aspect of the communication, in music programming it is the musical component that is the principal attraction to viewers. Although captioning is effective in augmenting many types of television programming for persons with hearing impairments, captions obviously are not an effective substitute for the instrumental aspect of the music. If GAC's music videos were to be captioned, it is not predictable whether any significant number of persons with hearing impairments would choose to watch that programming, or whether they would choose to watch other types of programs that are better-suited to captioning. We believe this factor should exempt music video programming from the captioning requirements.

Conclusion.

In conclusion, GAC respectfully requests that the Commission exempt networks with fewer than 20 million subscribers from the closed captioning requirements. In addition, GAC requests that the Commission also exempt music video programming from such requirements.

Very truly yours,

A handwritten signature in black ink, appearing to read "Guy J. Sotik", with a stylized flourish at the end.

President